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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,800	11/18/2003	Emilio M. Villani	2790-1A	5172

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CANADA

EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT PAPER NUMBER

3671

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,800

Applicant(s)

VILLANI, EMILIO M.

Examiner

Alexandra K Pechhold

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-7 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 16 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: it appears that "portion" should follow "concave" in the second to last line. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Douglas et al (US 6,338,511 B1).**

Regarding claim 1, Douglas discloses a shovel comprising a blade and a handle, as shown in Figs. 1 and 2 having:

- a shovel front edge, seen as (26, 28, 36) in Fig. 1,
- a shovel rear edge, seen where flanges (18, 20) rise from the rear of the shovel in Fig. 1,
- first and second shovel side edges, shown in Fig. 1 as the sides
- a front surface and a rear surface, illustrated in the figures,
- first and second wings extending outwardly and upwardly from respective shovel side edges, seen as flanges (80, 82), and

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- each of the wings having a wing front edge and wing rear edge, each of the wing front edges merging with a respective shovel side edge at a point *substantially* midway between said shovel front edge and said shovel rear edge, as shown by Douglas in Fig. 1, each of said wing front edges having a straight edge portion (seen where reference numeral 64 starts in Fig. 2) and an arcuate concave portion (seen where reference numerals 66 and 74 are in Fig. 2), said arcuate concave extending between said respective shovel side edge and a respective straight edge portion (see Fig. 2).

Regarding claim 2, Douglas illustrates in Fig. 2 the wing front edge and wing rear edge merging to form an arcuate wing top edge, specifically at reference numeral (68) in Fig. 2.

Regarding claim 3, Figs. 1 and 2 of Douglas illustrate the claimed limitation of the wing rear edge extending outwardly from a point proximate the shovel rear edge.

Regarding claim 4, Douglas discloses the shovel front surface having a concave configuration in column 6, lines 9-16.

Regarding claim 5, Fig. 1 illustrates the curved front edges (26, 28) coming to a pointed configuration at the shovel front edge.

Regarding claim 6, Fig. 1 illustrates the shovel front edge being tapered, shown by the curved front edges (26, 28).

Regarding claim 7, Douglas illustrates each wing rear edge having an

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outwardly extending flange, seen as (18, 20) in Figs. 1 and 2.

Response to Arguments

4. Applicant's arguments filed 6/16/04 have been fully considered but they are not persuasive. Applicant has amended claim 1 to recite that the merging is "at a point substantially midway between said shovel front edge and said shovel rear edge, each of said wing front edges having a straight edge portion and an arcuate concave portion, said arcuate concave extending between said respective shovel side edge and a respective straight edge portion". A broad interpretation of the "substantially midway" limitation is met by Douglas, since Fig. 1 illustrates this limitation, since the merging is not at the extreme front edge or rear edge, but rather substantially midway between the front edge and rear edge. Also, an arcuate concave portion can be seen in Fig. 2 at reference numerals 74 and 66, and a straight edge portion can be seen rearwards from the concave portion, beginning at reference numeral 64 in Fig. 2.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

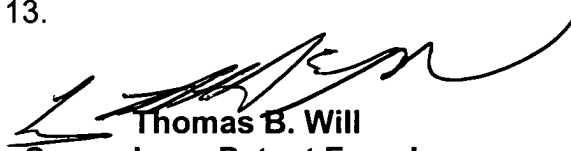
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calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
8/10/04